



SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

**United States Patent Application**  
COMBINED DECLARATION AND POWER OF ATTORNEY

I, a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **PHARMACEUTICAL COMPOSITIONS CONTAINING A GLYCOPEPTIDE ANTIBIOTIC AND A CYCLODEXTRIN.**

The specification of which was filed on May 1, 2001 as application serial no. 09/846,893.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. §1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

**No such claim for priority is being made at this time.**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

| <u>Application Number</u> | <u>Filing Date</u> |
|---------------------------|--------------------|
| 60/226,727                | August 18, 2000    |
| 60/201,178                | May 2, 2000        |
| 60/213,410                | June 22, 2000      |
| 60/213,417                | June 22, 2000      |
| 60/213,146                | June 22, 2000      |
| 60/213,415                | June 22, 2000      |
| 60/213,428                | June 22, 2000      |

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

**No such claim for priority is being made at this time.**

Attorney Docket No.: 1343.016US1  
Serial No. 09/846,893  
Filing Date: May 1, 2001

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

|                        |                 |                               |                 |                       |                 |
|------------------------|-----------------|-------------------------------|-----------------|-----------------------|-----------------|
| Anglin, J. Michael     | Reg. No. 24,916 | Hagenah, Jeffrey A.           | Reg. No. 35,175 | Nelson, Albin J.      | Reg. No. 28,650 |
| Arora, Suneel          | Reg. No. 42,267 | Gortych, Joseph E.            | Reg. No. 41,791 | Nielsen, Walter W.    | Reg. No. 25,539 |
| Beekman, Marvin L.     | Reg. No. 38,377 | Haack, John L.                | Reg. No. 36,154 | Padys, Danny J.       | Reg. No. 35,635 |
| Bianchi, Timothy E.    | Reg. No. 39,610 | Harris, Robert J.             | Reg. No. 37,346 | Parker, J. Kevin      | Reg. No. 33,024 |
| Billion, Richard E.    | Reg. No. 32,836 | Hill, Stanley K.              | Reg. No. 37,548 | Perdok, Monique M.    | Reg. No. 42,989 |
| Black, David W.        | Reg. No. 42,331 | Jackson Huebsch, Katharine A. | Reg. No. 47,670 | Peterson, David C.    | Reg. No. 47,857 |
| Boone, David E.        | Reg. No. 27,857 | Jurkovich, Patti J.           | Reg. No. 44,813 | Prout, William F.     | Reg. No. 33,995 |
| Brennan, Leoniede M.   | Reg. No. 35,832 | Kalis, Janal M.               | Reg. No. 37,650 | Schumm, Sherry W.     | Reg. No. 39,422 |
| Brennan, Thomas F.     | Reg. No. 35,075 | Klima-Silberg, Catherine I.   | Reg. No. 40,052 | Schwegman, Micheal L. | Reg. No. 25,816 |
| Brooks, Edward J., III | Reg. No. 40,925 | Kluth, Daniel J.              | Reg. No. 32,146 | Scott, John C.        | Reg. No. 38,613 |
| Chadwick, Robin A.     | Reg. No. 36,477 | Lacy, Rodney L.               | Reg. No. 41,136 | Smith, Michael G.     | Reg. No. 45,368 |
| Clark, Barbara J.      | Reg. No. 38,107 | Lemaire, Charles A.           | Reg. No. 36,198 | Speier, Gary J.       | Reg. No. 45,458 |
| Clise, Timothy B.      | Reg. No. 40,957 | LeMoine, Dana B.              | Reg. No. 40,062 | Steffey, Charles E.   | Reg. No. 25,179 |
| Cohen, Joyce           | Reg. No. 44,622 | Lundberg, Steven W.           | Reg. No. 30,568 | Stordal, Leif T.      | Reg. No. 46,251 |
| Dahl, John M.          | Reg. No. 44,639 | Maki, Peter C.                | Reg. No. 42,832 | Terry, Kathleen R.    | Reg. No. 31,884 |
| Drake, Eduardo E.      | Reg. No. 40,594 | Malen, Peter L.               | Reg. No. 44,894 | Tong, Viet V.         | Reg. No. 45,416 |
| Embreton, Janet E.     | Reg. No. 39,665 | Mates, Robert E.              | Reg. No. 35,271 | Viksnins, Ann S.      | Reg. No. 37,748 |
| Fordenbacher, Paul J.  | Reg. No. 42,546 | McCrackin, Ann M.             | Reg. No. 42,858 | Vogel, Peter J.       | Reg. No. 41,363 |
| Forrest, Bradley A.    | Reg. No. 30,837 | Moore, Charles L., Jr.        | Reg. No. 33,742 | Woessner, Warren D.   | Reg. No. 30,440 |
| Gamon, Owen J.         | Reg. No. 36,143 | Nama, Kash                    | Reg. No. 44,255 |                       |                 |

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary. Additionally, I hereby authorize David E. Boone to revoke or add named attorneys at his discretion.

Please direct all correspondence in this case to **Schwegman, Lundberg, Woessner & Kluth, P.A.** at the address indicated below:  
P.O. Box 2938, Minneapolis, MN 55402  
Telephone No. (612)373-6900

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 1 : J. Kevin Judice

Citizenship: United States of America

Post Office Address: 212 Dolores Street  
El Granada, CA 94018

Residence: El Granada, CA

Signature: J. Kevin Judice

Date: 04 FEBRUARY 2002

Full Name of joint inventor number 2 : Jeng-Pyng Shaw

Citizenship: United States of America

Post Office Address: 12822 Cumberland Drive  
Saratoga, CA 95080

Residence: Saratoga, CA

Signature: Jeng-Pyng Shaw

Date: Feb. 04, 2002

Additional inventors are being named on separately numbered sheets, attached hereto.

Attorney Docket No.: 1343.016US1  
Serial No. 09/846,893  
Filing Date: May 1, 2001

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of joint inventor number 3 : YongQi Mu

Citizenship: China  
Post Office Address: 102 Lyell Street  
Los Altos, CA 94022

Residence: Los Altos, CA

Signature: YongQi Mu Date: 01/25/02

YongQi Mu

Full Name of joint inventor number 4 : Michael W. Conner

Citizenship: United States of America  
Post Office Address: 456 Coronado Avenue  
Half Moon Bay, CA 94019

Residence: Half Moon Bay, CA

Signature: Michael W. Conner Date: 25-Jan-2002

Michael W. Conner

Full Name of joint inventor number 5: John L. Pace  
Citizenship: United States of America  
Post Office Address: 35 Indian Rock Court  
San Anselmo, CA 94960

Residence: San Anselmo, CA

Signature: John L. Pace Date: 1/25/2002

John L. Pace

Full Name of inventor:  
Citizenship: Residence:  
Post Office Address:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

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ORIGINALLY FILED



Attorney's Docket No. 1343.0 FUS1

Patent  
TECH CENTER 1600/2900  
MAR 01 2002

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

) Group Art Unit: 1614

) J. Kevin Judice et al.

) Examiner: Unknown

Application No.: 09/846,893

) Certificate of Mailing  
I hereby certify that this correspondence is being  
deposited with the United States Postal Service with  
sufficient postage as first class mail in an envelope  
addressed to the Assistant Commissioner for Patents,  
Washington, D.C. 20231, on the date shown below.

Filed: May 1, 2001

Date: February 6, 2002

For: PHARMACEUTICAL COMPOSITIONS  
CONTAINING A GLYCOPEPTIDE ANTIBIOTIC  
AND A CYCLODEXTRIN

Signature: Linda Fall  
Linda Fall

STATEMENT OF PERSON BEING ADDED AS INVENTOR  
PURSUANT TO 37 C.F.R. §1.48(a)(2)

Assistant Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

I, JOHN L. PACE, was erroneously omitted as an inventor on a declaration filed under 37 C.F.R. §1.63 in the above-identified patent application. This error occurred without deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

1/25/2002  
Date

John L. Pace  
John L. Pace



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Attorney's Docket No. 1343.016.1S1

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TECH CENTER 1600/2900

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of ) Group Art Unit: 1614  
J. Kevin Judice et al. )  
Application No.: 09/846,893 ) Examiner: Unknown  
Filed: May 1, 2001 )  
For: PHARMACEUTICAL COMPOSITIONS )  
CONTAINING A GLYCOPEPTIDE ANTIBIOTIC )  
AND A CYCLODEXTRIN )  
) *Certificate of Mailing*  
I hereby certify that this correspondence is being  
deposited with the United States Postal Service with  
sufficient postage as first class mail in an envelope  
addressed to the Assistant Commissioner for Patents,  
Washington, D.C. 20231, on the date shown below.  
Date: February 6, 2001  
Signature: Linda Fall  
Linda Fall

**CONSENT BY ASSIGNEE TO CORRECTION OF INVENTORSHIP**  
**PURSUANT TO 37 C.F.R. §1.48**

**Assistant Commissioner for Patents  
Washington, D.C. 20231**

Sir:

The assignee, Advanced Medicine, Inc., of the above-identified application hereby consents to the correction of inventorship being filed herewith for this application.

Advanced Medicine, Inc. is assignee of the entire right, title and interest in this application by virtue of an executed assignment recorded on September 28, 2001 in the U.S. Patent and Trademark Office at Reel 012207, Frame 0150-0154; and further by virtue of an assignment executed by newly added inventor John L. Pace which is being submitted for recordation on even date herewith. A copy of the executed Pace assignment and the request for recordation are attached hereto. The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

Respectfully submitted,

By: Bradford J. Shafer, Esq.  
Senior Vice President and General Counsel

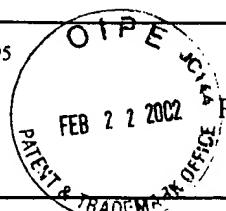
Date: January 25, 2002

Advanced Medicine, Inc.  
900 Gateway Boulevard  
South San Francisco, CA 94080  
Tel: (650) 808-6100  
Fax: (650) 808-6078

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FORM PTO-1595  
(Rev. 6/93)

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office



**RECORDATION FORM COVER SHEET  
PATENTS ONLY**

Attorney's Docket No. 1343.016US1 (AM-16002900)

**RECEIVED**

To the Honorable Commissioner of Patents and Trademarks. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

John L. Pace

**COPY**

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of conveyance:

Assignment

Security Agreement

Merger

Change of Name

Other: \_\_\_\_\_

Execution Date: 1-25-02

2. Name and address of receiving party(ies):

Name: ADVANCED MEDICINE, INC.

Address: 901 Gateway Boulevard

South San Francisco, CA 94080

Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s)

09/846,893

B. Patent No.(s)

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: David E. Boone, Esq.

Address: ADVANCED MEDICINE, INC.

Attn: Legal Dept.

901 Gateway Boulevard

South San Francisco, CA 94080

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR § 3.41): \$ 40.00

Enclosed

Authorized to be charged to deposit account, if necessary

8. Deposit account number:

50-0344

**DO NOT USE THIS SPACE**

9. Statement and signature.

*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*

Jeffrey A. Hagenah, Reg. No. 35,175  
Name of Person Signing

February 6, 2002  
Date

Total number of pages including cover sheet, attachments, and document: 3 pages

Mail documents to be recorded with required cover sheet information to:

**Commissioner of Patents and Trademarks  
Box Assignments  
Washington, D.C. 20231**

# ASSIGNMENT

(SOLE)

**COPY**

THIS ASSIGNMENT, by JOHN L. PACE, residing at 35 INDIAN ROCK COURT  
SAN ANSELMO, CA 94960 (hereinafter referred to as "the Assignor"), witnesseth

WHEREAS, the Assignor has invented certain new and useful improvements in PHARMACEUTICAL COMPOSITIONS CONTAINING A GLYCLOPEPTIDE ANTIBIOTIC AND A CYCLODEXTRIN set forth in an application, which is a

provisional application       non-provisional application

1. (a)  filed herewith;  
(b)  to be filed;
2.  having an oath or declaration executed on even date herewith prior to filing of application;
3.  bearing Application No. 09/846,893, and filed on MAY 1, 2001; and

WHEREAS, ADVANCED MEDICINE, INC., a corporation duly organized under and pursuant to the laws of the state of Delaware, and having its principal place of business at 901 GATEWAY BOULEVARD, SOUTH SAN FRANCISCO, CALIFORNIA 94080 (hereinafter referred to as "the Assignee"), is desirous of acquiring the entire right, title, and interest in and to said inventions, the right to file applications on said inventions and the entire right, title and interest in and to any applications, including provisional applications for Letters Patent of the United States or other countries claiming priority to said application, and in and to any Letters Patent or Patents, United States or foreign, to be obtained therefor and thereon.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and sufficient consideration, the receipt of which is hereby acknowledged, the Assignor has sold, assigned, transferred, and set over, and by these presents does sell, assign, transfer, and set over, unto the Assignee, its successors, legal representatives, and assigns the entire right, title, and interest in and to the above-mentioned inventions, the right to file applications on said inventions and the entire right, title and interest in and to any applications for Letters Patent of the United States or other countries claiming priority to said application, and any and all Letters Patent or Patents of the United States of America and all foreign countries that may be granted therefor and thereon, and in and to any and all applications claiming priority to said applications, divisions, continuations, and continuations-in-part of said applications, and reissues and extensions of said Letters Patent or Patents, and all rights under the International Convention for the Protection of Industrial Property, the same to be held and enjoyed by the Assignee, for its own use and behalf and the use and behalf of its successors, legal representatives, and assigns, to the full end of the term or terms for which Letters Patent or Patents may be granted as fully and entirely as the same would have been held and enjoyed by the Assignor had this sale and assignment not been made;

AND for the same consideration, the Assignor hereby covenants and agrees to and with the Assignee, its successors, legal representatives, and assigns, that, at the time of execution and delivery of these presents, the Assignor is the sole and lawful owner of the entire right, title, and interest in and to the inventions set forth in said applications and said applications, including provisional applications, above-mentioned, and that the same are unencumbered, and that the Assignor has good and full right and lawful authority to sell and convey the same in the manner herein set forth;

AND for the same consideration, the Assignor hereby covenants and agrees to and with the Assignee, its successors, legal representatives, and assigns that the Assignor will, whenever counsel of the Assignee, or the counsel of its successors, legal representatives, and assigns, shall advise that any proceeding in connection with said inventions or said applications for Letters Patent or Patents, or any proceeding in connection with Letters Patent or Patents for said inventions in any country, including interference proceedings, is lawful and desirable, or that any application claiming priority to said application, division, continuation, or continuation-in-part of any applications for Letters Patent or Patents, or any reissue or extension of any Letters Patent or Patents to be obtained thereon, is lawful and desirable, sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of Letters Patent or Patents for said inventions, without charge to the Assignee, its successors, legal representatives, and assigns, but at the cost and expense of the Assignee, its successors, legal representatives, and assigns;

AND the Assignor hereby requests the Commissioner of Patents to issue any and all said Letters Patent of the United States to the Assignee, as the Assignee of said inventions and the Letters Patent to be issued thereon for the sole use and behalf of the Assignee, its successors, legal representatives, and assigns.

Date 1/25/2002 Signature of Assignor John L. Pace

John L. Pace

COPY